

## **225.7201**

2006, if the system is not yet in development and demonstration (milestone B as defined in DoDI 5000.2).

[70 FR 8537, Feb. 22, 2005]

### **Subpart 225.72—Reporting Contract Performance Outside the United States**

SOURCE: 70 FR 20839, Apr. 22, 2005, unless otherwise noted.

#### **225.7201 Policy.**

(a) 10 U.S.C. 2410g requires offerors and contractors to notify DoD of any intention to perform a DoD contract outside the United States and Canada when the contract could be performed inside the United States or Canada.

(b) DoD requires contractors to report the volume, type, and nature of contract performance outside the United States.

#### **225.7202 Exception.**

This subpart does not apply to contracts for commercial items, construction, ores, natural gas, utilities, petroleum products and crudes, timber (logs), or subsistence.

#### **225.7203 Contracting officer distribution of reports.**

Follow the procedures at PGI 225.7203 for distribution of reports submitted with offers in accordance with the provision at 252.225-7003, Report of Intended Performance Outside the United States and Canada—Submission with Offer.

#### **225.7204 Solicitation provision and contract clauses.**

Except for acquisitions described in 225.7202—

(a) Use the provision at 252.225-7003, Report of Intended Performance Outside the United States and Canada—Submission with Offer, in solicitations with a value exceeding \$10 million;

(b) Use the clause at 252.225-7004, Report of Intended Performance Outside the United States and Canada—Submission after Award, in solicitations and contracts with a value exceeding \$10 million; and

(c) Use the clause at 252.225-7006, Quarterly Reporting of Actual Con-

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tract Performance Outside the United States, in solicitations and contracts with a value exceeding \$500,000.

### **Subpart 225.73—Acquisitions for Foreign Military Sales**

#### **225.7300 Scope of subpart.**

(a) This subpart contains policies and procedures for acquisitions for foreign military sales (FMS) under the Arms Export Control Act (22 U.S.C. Chapter 39). Section 22 of the Arms Export Control Act (22 U.S.C. 2762) authorizes DoD to enter into contracts for resale to foreign countries or international organizations.

(b) This subpart does not apply to—

(1) FMS made from inventories or stocks;

(2) Acquisitions for replenishment of inventories or stocks; or

(3) Acquisitions made under DoD cooperative logistic supply support arrangements.

[63 FR 43889, Aug. 17, 1998]

#### **225.7301 General.**

(a) The U.S. Government sells defense articles and services to foreign governments or international organizations through FMS agreements. The agreement is documented in a Letter of Offer and Acceptance (LOA) (see DoD 5105.38-M, Security Assistance Management Manual). The LOA—

(1) Lists the items and services, estimated costs, and terms and conditions of the sale;

(2) Is presented to the foreign customer; and

(3) Provides for signature of the foreign customer to indicate acceptance.

(b) Conduct FMS acquisitions under the same acquisition and contract management procedures used for other defense acquisitions.

(c) Separately identify known FMS requirements and the FMS customer in solicitations.

(d) Clearly identify contracts for known FMS requirements by marking “FMS requirement” on the face of the contract along with the FMS customer and the case identifier code.

(e) See 229.170 for policy on contracts financed under U.S. assistance programs that involve payment of foreign